

CONTRACT ADMINISTRATION MEMORANDUM NO. 3

REGARDING

CONCESSION AGREEMENT

**SERVICE CONTRACT FOR THE DESIGN, CONSTRUCTION AND FINANCING OF
UPGRADES AND FOR THE OPERATION OF THE RIALTO UTILITY AUTHORITY
WASTEWATER FACILITY AND WATER FACILITY**

This Contract Administration Memorandum No. 3 regarding the Concession Agreement: Service Contract for the Design, Construction and Financing of Upgrades and for the Operation of the Rialto Utility Authority Wastewater Facility and Water Facility (this "Memorandum") is entered into and effective as of November 29, 2012 by and between:

- (a) Rialto Water Services, LLC, a Delaware limited liability company (the "Concessionaire");
- (b) the Rialto Utility Authority, a California joint powers authority (the "Authority");
and
- (c) the City of Rialto, a municipal corporation of the State of California (the "City")
and, together with the Concessionaire and the Authority, the "Parties").

BACKGROUND:

A. The Concessionaire, as successor in interest to Rialto Water Services, LP, a Delaware limited partnership, the Authority and the City are parties to that certain Concessionaire Agreement: Service Contract for the Design, Construction and Financing of Upgrades and for the Operation of the Rialto Utility Authority Wastewater Facility and Water Facility, entered into and effective as of March 27, 2012 (the "Agreement"). Capitalized terms used but not defined herein shall have the respective meanings set forth in the Agreement. Unless otherwise indicated, all section references are to the Sections of the Agreement.

B. Pursuant to Section 25.6 of the Agreement, the Concessionaire, the Authority and the City entered into Contract Administration Memorandum No. 1 entered into and effective as of September 14, 2012 ("CAM No. 1") pursuant to the Agreement to address certain matters of interpretation and application arising during the course of the performance of their obligations under the Agreement and Contract Administration Memorandum No. 2 entered into and effective as of November 29, 2012 ("CAM No. 2") pursuant to the Agreement to evidence the resolution reached by such parties as to matters of interpretation and application with respect to the Agreement and the form documents attached as schedules to the Agreement.

C. The Concessionaire, the Authority and the City have determined that the meaning, interpretation or application of certain other provisions of the Agreement shall be documented in this subsequent Memorandum.

D. Pursuant to Section 25.6 of the Agreement, the Concessionaire, the Authority and the City have agreed to execute this Memorandum to document the Capital Charges adjustments contemplated by Section 2.5 and the establishment of the Effective Date.

NOW, THEREFORE, the following reflects the resolution reached by the Concessionaire, the Authority and the City:

1. Establishment of the Effective Date. Pursuant to Section 2.4(c), the Parties hereby agree that the Effective Date shall be November 30, 2012.

2. Schedules to the Concession Agreement. Pursuant to Section 2.5, the Parties have agreed to adjust the Capital Charges as follows:

a. Schedule E-1 to the Agreement shall be deleted in its entirety and replaced with Schedule E-1 attached hereto as Annex A.

b. Schedule E-2 to the Agreement shall be deleted in its entirety and replaced with Schedule E-2 attached hereto as Annex B.

c. Schedule E-3 to the Agreement shall be deleted in its entirety and replaced with Schedule E-3 attached hereto as Annex C.

d. Schedule F to the Agreement shall be deleted in its entirety and replaced with Schedule F attached hereto as Annex D.

e. Schedule F-1 to the Agreement shall be deleted in its entirety and replaced with Schedule F-1 attached hereto as Annex E.

3. Miscellaneous.

a. This Memorandum supersedes any prior resolution, agreement or understanding, written or oral, concerning the subject matter of this Memorandum (except for CAM No. 1 and CAM No. 2, which remain in full force and effect), and any such prior resolutions, agreements and understandings hereby cease to have any force or effect and may not be used by any party or admissible in any proceeding to construe, interpret or vary from the Agreement or this Memorandum.

b. Except as specifically set forth herein, in CAM No. 1 and in CAM No. 2, the Agreement remains unmodified and in full force and effect.

c. If any provision of this Memorandum is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way. If, however, the absence of the eliminated provision is contrary to the initial intention of the parties hereto, the parties hereto resolve to negotiate a mutually acceptable substitute provision.

d. This Memorandum is made with reference to, and shall be governed by and construed in accordance with the laws of the State of California, without regard to conflict of laws provisions.


e. This Memorandum may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

[Signature page follows.]

IN WITNESS WHEREOF, the parties to this Memorandum, intending to be legally bound, have executed this Memorandum as of the date first written above.

RIALTO WATER SERVICES, LLC

By: 
Name: Peter Luchetti
Its: President

By: 
Name: Jeff Murphy
Its: Vice President

RIALTO UTILITY AUTHORITY

By: 

Name: Michael E. Story

Its: Executive Director

CITY OF RIALTO

By: 

Name: Marcus Fuller

Its: Director of Public Works

APPROVED AS TO FORM AND LEGALITY

By: 

Name: Danny Kim

Title: Partner, Folsom & Jaworski L.L.P.

Schedule E-1

CONTRIBUTIONS TO ESCROW

	Wastewater	Water
Effective Date Concessionaire Payment	\$ 83,188,680 <i>CA Sections 2.1(e)(i); 2.2(o)(i)</i>	\$16,626,783 <i>CA Sections 2.1(e)(i); 2.2(o)(i)</i>
Cost Estimate for the Utility Facilities Improvements	\$28,066,000 <i>CA Sections 2.1(e)(ii); 2.2(o)(ii)</i>	\$12,971,000 <i>CA Sections 2.1(e)(iii); 2.2(o)(iii)</i>
Effective Date Authority Funding	\$ 2,393,528 <i>CA Section 2.2(j)</i>	\$2,700,000 <i>CA Section 2.2(j)</i>

Notes:

1. Section numbers in table above refer to the Concession Agreement ("**CA**") or Trust Agreement ("**TA**") as specified for each item.
2. Until the Effective Date, all of the proceeds of the Concessionaire Financing (including the Effective Date Concessionaire Payment and the Cost Estimate for the Utility Facilities Improvements) shall be held in Escrow in an escrow account for the benefit of Concessionaire ("**Concessionaire Escrow Account**").
3. Upon the Effective Date, from the proceeds of the Concessionaire Financing, (a) the Effective Date Concessionaire Payment shall be released by the Escrow Agent from the Concessionaire Escrow Account to an escrow account held in Escrow for the benefit of the Authority ("**Authority Escrow Account**") and shall be released or paid from the Authority Escrow Account to certain Project Accounts or otherwise applied (together with the Effective Date Authority Funding as described in paragraph 5 below) in accordance with Schedule E-2, (b) the Cost Estimate for the Utility Facilities Improvements shall be released by the Escrow Agent from the Concessionaire Escrow Account to the Wastewater Concessionaire Construction Accounts (Restricted) and Water Concessionaire Construction Accounts (Restricted), as the case may be, under the

Depository Agreement in accordance with Schedule E-2 and (c) after making the payments and releases specified in clauses (a) and (b) above in this paragraph 3, the remaining balance of the Concessionaire Financing in the Concessionaire Escrow Account shall be released by the Escrow Agent from the Concessionaire Escrow Account to the Master Concessionaire Revenue Account under the Depository Agreement.

4. Until the Effective Date, the Effective Date Authority Funding shall be held in the Authority Escrow Account and shall only be used to repay the Defeased Obligations directly from the Escrow.
5. Upon the Effective Date, the Effective Date Authority Funding shall be directly applied by the Escrow Agent against the Defeased Obligations (together with a portion of the Effective Date Concessionaire Payment) in accordance with Schedule E-2.

**SCHEDULE E-2
ESCROW FLOW OF FUNDS**

	Wastewater	Water	Source of Funds	Application of Funds on the Effective Date (as applicable between Wastewater and Water)
Cost Estimate for the Utility Facilities Improvements	\$28,066,000 <i>CA Sections 2.1(e)(ii); 2.2(o)(ii)</i>	\$12,971,000 <i>CA Sections 2.1(e)(iii); 2.2(o)(iii)</i>	Concessionaire Escrow Account	Wastewater Concessionaire Construction Account (Restricted) Water Concessionaire Construction Account (Restricted)
Defeased Obligations	\$ 23,648,443 <i>CA Section 2.2(h)</i>	\$ 2,893,669 <i>CA Section 2.2(h)</i>	Authority Escrow Account	Direct pay from Escrow to defease or repay the Defeased Obligations in full (Note: 100% of the Effective Date Authority Funding shall be applied against the Defeased Obligations)
Initial Funding of Rate Stabilization Accounts	\$ 22,962,201 <i>TA Section 5.03(a);</i> <i>CA Section 2.2(p)</i>	\$ 8,952,242 <i>TA Section 5.03(a)</i> <i>CA Section 2.2(p)</i>	Authority Escrow Account	Wastewater Rate Stabilization Account Water Rate Stabilization Account

	Wastewater	Water	Source of Funds	Application of Funds on the Effective Date (as applicable between Wastewater and Water)
Initial Working Capital Deposits to Operating Accounts	<p>\$ 0</p> <p><i>TA Section 5.04(b)</i></p> <p><i>CA Section 2.2(p)</i></p>	<p>\$ 0</p> <p><i>TA Section 5.05(b)</i></p> <p><i>CA Section 2.2(p)</i></p>	Authority Escrow Account	<p>Wastewater Operating Account</p> <p>Water Operating Account</p>
Initial Working Capital Deposits to Authority Expense Accounts	<p>\$ 468,034</p> <p><i>TA Section 5.04(b)</i></p> <p><i>CA Section 2.2(p)</i></p>	<p>\$ 509,871</p> <p><i>TA Section 5.05(b)</i></p> <p><i>CA Section 2.2(p)</i></p>	Authority Escrow Account	<p>Wastewater Facility Authority Expense Account</p> <p>Water Facility Authority Expense Account</p>
Initial Funding of Operating R&R Accounts	<p>\$1,000,000</p> <p><i>TA Section 5.04(e)</i></p> <p><i>CA Section 2.2(p)</i></p>	<p>\$1,000,000</p> <p><i>TA Section 5.05(e)</i></p> <p><i>CA Section 2.2(p)</i></p>	Authority Escrow Account	<p>Wastewater Operating R&R Account</p> <p>Water Operating R&R Account</p>
Initial Funding of Reserve Accounts	<p>\$ 5,503,530</p> <p><i>TA Section 5.04(g)</i></p> <p><i>CA Section 2.2(p)</i></p>	<p>\$ 2,971,001</p> <p><i>TA Section 5.05(g)</i></p> <p><i>CA Section 2.2(p)</i></p>	Authority Escrow Account	<p>Wastewater Reserve Account</p> <p>Water Reserve Account</p>

	Wastewater	Water	Source of Funds	Application of Funds on the Effective Date (as applicable between Wastewater and Water)
Funds released from Escrow to the Authority outside the Trust Agreement	\$ 32,000,000 <i>CA Sections 2.1(e)(i); 2.2(o)(i)</i>	\$ 3,000,000 <i>CA Sections 2.1(e)(i); 2.2(o)(i)</i>	Authority Escrow Account	Excluded Account, Preexisting Account or an account owned by the City that is not subject to Trust Agreement or Depositary Agreement

Notes:

- Section numbers in table above refer to the Concession Agreement (“**CA**”) or Trust Agreement (“**TA**”) as specified for each item.
- The amounts set forth in the table above with respect to the Defeased Obligations are estimates of the Defeased Obligations as of September 1, 2012 based upon disclosures made to Concessionaire by the City and Authority prior to the Contract Date. The actual amounts necessary to defease or pay in full the Defeased Obligations may be different than what appears in this Schedule E-2 or Schedule S. Notwithstanding the foregoing, nothing shall limit the Authority’s obligation to defease or pay in full all of its outstanding Indebtedness on the Effective Date as required under Sections 2.2(h), 19.2(j) and 19.3(j).

SCHEDULE E-3**DRAWS ON RATE STABILIZATION ACCOUNTS**

The following amounts shall be drawn from the Wastewater Rate Stabilization Account and the Water Rate Stabilization Account in accordance with Section 5.03 of the Trust Agreement.

	Wastewater	Water
November 29, 2012	\$ 1,346,387	\$ 727,840
January 1, 2013	\$ 909,763	\$ 411,250
February 1, 2013	\$ 909,763	\$ 411,250
March 1, 2013	\$ 909,763	\$ 411,250
April 1, 2013	\$ 909,763	\$ 411,250
May 1, 2013	\$ 909,763	\$ 411,250
June 1, 2013	\$ 909,763	\$ 411,250
July 1, 2013	\$ 909,763	\$ 411,250
August 1, 2013	\$ 909,763	\$ 411,250
September 1, 2013	\$ 909,763	\$ 411,250
October 1, 2013	\$ 909,763	\$ 411,250
November 1, 2013	\$ 909,763	\$ 411,250
December 1, 2013	\$ 909,763	\$ 411,250
January 1, 2014	\$ 602,898	\$ 237,272
February 1, 2014	\$ 602,898	\$ 237,272
March 1, 2014	\$ 602,898	\$ 237,272
April 1, 2014	\$ 602,898	\$ 237,272
May 1, 2014	\$ 602,898	\$ 237,272
June 1, 2014	\$ 602,898	\$ 237,272
July 1, 2014	\$ 602,898	\$ 237,272
August 1, 2014	\$ 602,898	\$ 237,272
September 1, 2014	\$ 602,898	\$ 237,272
October 1, 2014	\$ 602,898	\$ 237,272
November 1, 2014	\$ 602,898	\$ 237,272
December 1, 2014	\$ 602,898	\$ 237,272
January 1, 2015	\$ 288,657	\$ 36,845
February 1, 2015	\$ 288,657	\$ 36,845
March 1, 2015	\$ 288,657	\$ 36,845

April 1, 2015	\$ 288,657	\$ 36,845
May 1, 2015	\$ 288,657	\$ 36,845
June 1, 2015	\$ 288,657	\$ 36,845
July 1, 2015	\$ 288,657	\$ 36,845
August 1, 2015	\$ 288,657	\$ 36,845
September 1, 2015	\$ 288,657	\$ 36,845
October 1, 2015	\$ 288,657	\$ 36,845
November 1, 2015	\$ 288,657	\$ 36,845
December 1, 2015	\$ 288,657	\$ 36,845

SCHEDULE F
CERTAIN PAYMENTS

DUE TO CONCESSIONAIRE OVER TERM

	Wastewater	Water
Service Fees - Fixed Component for the first Contract Year	\$1,948,109 <i>CA Section 8.2(a)</i>	\$2,021,691 <i>CA Section 14.2(a)</i>
Service Fees - Routine R&R Component for the first Contract Year	\$200,000 <i>CA Section 8.2(b)</i>	\$200,000 <i>CA Section 14.2(b)</i>
Service Fees - Chemical Component for the first Contract Year	\$722,705 <i>CA Section 8.2(c)</i>	\$62,469 <i>CA Section 14.2(c)</i>
Service Fees - Labor Component for the first Contract Year	\$2,652,785 <i>CA Section 8.2(d)</i>	\$2,479,280 <i>CA Section 14.2(d)</i>
Capital Charges Limits	\$12,750,000 <i>CA Section 8.4</i>	\$2,900,000 <i>CA Section 8.4</i>

Note:

- Section numbers in table above refer to the Concession Agreement (“CA”).
- Each of the amounts listed above is based on the first Contract Year being a complete calendar year. To the extent that the first Contract Year is less than a full calendar year, the amounts set forth above shall be adjusted as follows:
 - with respect to the Wastewater Fixed Component, Wastewater Routine R&R Component, Wastewater Chemical Component and Wastewater Labor Component shall be adjusted on a pro rata basis as set forth in Section 8.2;
 - with respect to the Water Fixed Component, Water Routine R&R Component, Water Chemical Component and Water Labor Component shall be adjusted on a pro rata basis as set forth in Section 14.2;
 - with respect to the Wastewater Capital Charges as set forth in Section 8.4; and
 - with respect to the Water Capital Charges as set forth in Section 14.4.

SCHEDULE F-1

**ALLOCATION AND TIMING OF THE CAPITAL CHARGES
DURING THE PERIOD OF TIME WHEN CONCESSIONAIRE
PROVIDES SERVICES WITH RESPECT TO THE CONSTRUCTION OF
THE UTILITY FACILITY IMPROVEMENTS**

Wastewater Facility Improvements Total Contract Price		
Contract Period	Total Contract Price	Total Capital Charges
Effective Date to December 31, 2012	27,014	2,125,000
January 1 to June 30, 2013	1,107,338	6,375,000
July 1 to December 31, 2013	2,338,088	6,375,000
January 1 to June 30, 2014	8,906,040	6,375,000
July 1 to December 31, 2014	12,116,672	6,375,000
January 1 to June 30, 2015	4,511,408	6,375,000
July 1 to December 31, 2015	1,973,210	6,375,000
January 1 to June 30, 2016	1,405,522	6,375,000
July 1 to December 31, 2016	1,469,490	6,375,000
January 1 to June 30, 2017	1,609,173	6,375,000
July 1 to December 31, 2017	807,110	6,375,000
Totals from Effective Date to December 31, 2017	36,271,064	65,875,000

Water Facility Improvements Total Contract Price		
Contract Period	Total Contract Price	Total Capital Charges
Effective Date to December 31, 2012	89,585	483,333
January 1 to June 30, 2013	394,926	1,450,000
July 1 to December 31, 2013	1,417,351	1,450,000
January 1 to June 30, 2014	1,883,869	1,450,000
July 1 to December 31, 2014	1,380,927	1,450,000
January 1 to June 30, 2015	5,046,975	1,450,000
July 1 to December 31, 2015	1,227,761	1,450,000
January 1 to June 30, 2016	1,253,637	1,450,000
July 1 to December 31, 2016	1,320,649	1,450,000
January 1 to June 30, 2017	1,446,891	1,450,000
July 1 to December 31, 2017	727,562	1,450,000
Totals from Effective Date to December 31, 2017	16,190,134	14,983,333

Note 1: The Total Contract Prices for Water Facility Improvements and Wastewater Facility Improvements set forth above represent the total compensation payable to the Concessionaire in respect of the construction of such Utility Facility Improvements, all of which is included in the Capital Charges related to the respective Water Facilities and Wastewater Facilities payable by the Trustee under Sections 8.4 and 14.4 of the Concession Agreement during the period of time when Concessionaire provides Services with respect to the construction of the Utility Facility Improvements.

Note 2: The Total Contract Prices for Water Facility Improvements and Wastewater Facility Improvements set forth above represent fixed dollar amounts for each of the six month periods identified in the table. The Total Capital Charges set forth above for each of the six month periods also represent fixed dollar amounts for each of the six month periods, except for the first period from the Effective Date through December 31, 2012, which is prorated based on an estimated Effective Date of September 1, 2012 (which proration calculation shall be adjusted based on the actual Effective Date).